

**TENNESSEE REAL ESTATE COMMISSION
MINUTES**

FEBRUARY 7-8, 2007

The Tennessee Real Estate Commission convened on February 7, 2007, in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. The following Commission Members were present: Chairman Charles Haynes, Commissioner Gary Cunningham, Commissioner Adren Greene, Commissioner Robbie Helton, Commissioner Grover Collins, Commissioner Isaac Northern, Commissioner Wendell Alexander, and Commissioner Carol Tate. When calling the roll, Director Hancock announced that Vice-Chairman Stephenson would be late.

The first order of business was the approval of the Agenda **(Exhibit 1) Commissioner Collins made a motion to adopt the agenda; seconded by Commissioner Northern. Motion Carried; 8 yes 0 no.**

MINUTES FROM JANUARY 2007 **(Exhibit 2) Commissioner Alexander made a motion to approve the minutes from January 2007 as presented; seconded by Commissioner Northern. Motion Carried; 8 yes 0 no.**

INFORMAL CONFERENCES:

Ms. Pamala J. Freels, unapproved applicant – Ms. Freels appeared before the Commission in order to appeal the Commission's decision to deny her application for license approval in December 2006. Ms. Freels disclosed a 2001 conviction for aggravated burglary and a 2004 conviction for theft of property. **Commissioner Helton made a motion to deny application; seconded by Commissioner Alexander. Chairman Haynes called for a voice vote: Commissioners Helton, Alexander, Tate and Haynes voted yes; Commissioners Greene, Collins, Northern, and Cunningham voted no. Ms. Freels application status will remain as from the December 2006 meeting.**

Mr. Frank Bullock, unapproved applicant – Mr. Bullock disclosed a 1994 conviction of "imitation drugs for resale". **Commissioner Cunningham made a motion to approve applicant; seconded by Commissioner Collins. Chairman Haynes called for a voice vote: Commissioners Greene, Collins, Northern, Cunningham, Alexander, Tate, and Haynes voted yes; Commissioner Helton voted no.**

APPLICANT/LICENSEE REQUESTS:

Mr. James Michael Moore, License 14837 (Expired in 2004) – Mr. Moore requested that the Commission consider reinstating his broker license without taking the required examination and completing the educational requirements. **Commissioner Alexander made a motion to deny the request; seconded by Commissioner Collins. Motion carried. Vote passed unanimously.**

Mr. Robert VanMeter, applicant – Mr. VanMeter offered a statement concerning reciprocity with Colorado and applying in Tennessee as a resident. He pointed out that via reciprocity, he wasn't required to complete any other steps, but moving to Tennessee required him to take a 30 hour course and the state exam. No action was required on this issue and none was taken.

Mr. Ralph J. Marciano, applicant – Mr. Marciano requested that the Commission allow him to obtain an affiliate broker license upon moving to Tennessee. Mr. Marciano disclosed a 30 day suspension while practicing in Florida in 1987. **Commissioner Alexander made a motion to approve the request; seconded by Commissioner Greene. Vote 6 yes 2 no. Commissioner Helton and Commissioner Northern voted no.**

Ms. Quida (Tate) Wilson, License 57542 (Expired in 2002) – Ms. Wilson requested that the Commission reinstate her broker's license after moving back to Tennessee from Atlanta without being required to take the required brokers test and 30 hours of educational instruction. **Commissioner Collins made a motion to deny the request; seconded by Commissioner Helton. Vote passed unanimously.**

Ms. Vanessa Dunlap, License 227028 – Ms. Dunlap requested that the Commission waive all late fees for her renewal due to an illness in 2006. Ms. Dunlap's license expired 12/31/2006. **Commissioner Collins made a motion to assess a \$50.00 late fee; seconded by Commissioner Northern. Vote passed unanimously.**

Mr. Raymond Eugene Robbins, applicant – Mr. Robbins requested that the Commission consider allowing him to take the exam within a 30 day period after failing on a previous occasion. **Commissioner Alexander made a motion to approve the request; seconded by Commissioner Collins. Vote 7 yes 1 no.**

Commissioner Stephenson arrived at the Commission meeting.

EDUCATION REPORT: (Exhibit 3) – Dr. Kathy Riggs, Education Director

Dr. Riggs presented courses for Commission Evaluation. **Commissioner Collins made a motion to approve the courses presented except for Property Staging Consultants in Clearwater, Kansas which he motioned to defer until March 2007; seconded by Commissioner Northern. Motion carried; Vote 9 yes 0 no.**

Dr. Riggs presented the Commission with an article from Mr. Richard Barbee for their consideration for inclusion in the next News-Journal. **(Exhibit 4)** In response to the Commission's invitation issued to licenses to submit possible articles for the News-Journal (Fall 2006 edition of the newsletter), Richard Barbee submitted an article titled "Kindness is Marketing". After discussion, it was determined that the article would not be approved for printing since it did not specifically relate to the practice of real estate. The Commission then indicated they would provide more defined criteria for article solicitation.

Dr. Riggs presented the Commission with the TAR's Education Survey. **(Exhibit 5)**

Dr. Riggs presented the Commission with the ARELLOGram and Director Hancock discussed the article regarding the Texas Sunset Advisory Commission's report. **(Exhibit 6)**

EXECUTIVE DIRECTOR'S REPORTS: – Donna Hancock, Interim Executive Director:
Ms. Hancock presented the following information to the Commission for review:

- Complaint Statistics Report **(Exhibit 7)**
- Auditor Summaries of Productivity **(Exhibit 8)**
- Update on Lexis Nexis – TN Real Estate Manual – 2006 Edition **(Exhibit 9)**
Commission Members submitted a memo to Assistant Commissioner Sullivan regarding the Tennessee Real Estate Manual and quarterly newsletter. **(Exhibit 13)** The memo was taken to Ms. Sullivan and copies were also taken to Ms. Mary Moody, Legal Counsel, and Leslie A. Newman, Commissioner.
- Licensee Longevity – Awards Ceremony **(Exhibit 10)**
- Juvenile Records in Criminal History Reports **(Exhibit 11)** Director Hancock submitted a memo from Assistant Commissioner Sullivan stating that no program in Regulatory Boards can deny a licensee due to an applicant having a juvenile violation. Our records indicate that in the past two (2) years, TREC has not denied any applicants a license for convictions disclosed prior to their 18th birthday.
- House Bill 70 by Turner M **(Exhibit 12)** **Commissioner Greene made a motion for the Commission to go on record as disapproving this bill; seconded by Commissioner Northern. Vote 8 yes 1 no. Commissioner Helton voted no.**

PROPOSED RULE CHANGES: (Exhibit 15)

Senator Raymond Finney submitted a letter to the Commission requesting them to review possible changes to the 50 mile radius rule for principal brokers. **(Exhibit 14)** The Commission agreed that they intend to delete rule 1260-2-.01(2) during the next rule making hearing.

Commissioner Stephenson provided everyone with a copy of a letter from the Memphis Area Association of Realtors in regards to proposed rule 1260-2-.33 regarding cash rebates (gifts and prizes). **(Exhibit 16)**

LEGAL REPORT: (Exhibit 17)

- 2006045631 – **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006045791 – **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**

- 2006045871 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006045091 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006045911 Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006044361 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006046643, 2006046642, and 2006046641 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006045181 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006040881 and 2006040791 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006042111 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006045681 Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006045031 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006045041 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006045061 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006045111 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006045361 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006045472 and 2006045471 – Commissioner Alexander made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
- 2006044371 – Commissioner Northern made a motion to issue a consent order with a civil penalty of \$2,000.00 (\$500.00 for escrow violation, \$500.00 for sign violation, and \$1,000.00 for failure to maintain records); seconded by Commissioner Helton. Vote passed unanimously.

- 2006044422 and 2006044421 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006044772 and 2006044771 - **Commissioner Alexander made a motion to defer until March 2007 meeting, seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006044791 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006044861 – **Commissioner Stephenson made a motion to dismiss the complaint; seconded by Commissioner Helton. Vote passed unanimously.**
- 2006044751 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006045001 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006041261 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006039001 and 2006039021 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006038621 – **Commissioner Collins made a motion to fine the agency \$1000.00 for each incident found by auditors and to audit all records; seconded by Commissioner Alexander. Vote passed unanimously.**
- 2006039221 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 200604405 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006044121 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006043861 and 2006043862 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006040813, 2006040812, and 2006040811 - **Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.**
- 2006040822 and 2006040821 – **Commissioner Alexander made a motion to hold an informal hearing with affiliate and principal broker; seconded by Commissioner Collins. Vote passed unanimously. Commissioner Haynes made a motion to create a sub-committee consisting of Commissioner Tate, Commissioner Collins, and Commissioner Northern in order to hold the informal hearing with**

- affiliate and principal broker regarding the issues'; seconded by Commissioner Collins. Vote passed unanimously.
- 2006040831 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
 - 2006040911 – Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
 - 2006042181 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
 - 2006042361 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
 - 2006040961 – Commissioner Collins made a motion to levy a civil penalty of \$500.00 against the agency; seconded by Commissioner Alexander. Vote passed unanimously.
 - 2006040991 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
 - 2006041101 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
 - 200641181 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
 - 2006041211 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
 - 2007047651 - Commissioner Collins made a motion to dismiss the complaint; seconded by Commissioner Stephenson. Vote passed unanimously.
 - 200704912 – Commissioner Stephenson made a motion to turn the complaint over to the Attorney General's office and issue a Cease & Desist; seconded by Commissioner Helton and Commissioner Northern. Commissioner Stephenson made a motion to reopen the discussion; seconded by Commissioner Alexander. Commissioner Stephenson made a motion to turn the complaint over to the Attorney General's office, issue a Cease & Desist, and impose a civil penalty of \$1,000.00 against each individual for each occurrence and report the individuals who were practicing real estate without a license to the Insurance Section as the individuals were licensed through the Insurance Division of Commerce and Insurance to sell insurance; seconded by Commissioner Helton and Commissioner Northern.

COMMISSIONER'S REPORTS:

Chairman Haynes presented a letter regarding the Tennessee Real Estate Escrow (TREE) program that would provide for the interest on Tennessee real estate brokers' escrow and trust accounts to be used to help fund civil legal services for low-income Tennesseans. **(Exhibit 18) Commissioner Stephenson made a motion for Chairman Haynes to sign the letter but that it was to be understood that the program would be voluntary for principal brokers and the firms; seconded by Commissioner Helton. Vote passed unanimously.**

Commissioner Helton made a motion to move the March 2007 meeting to March 14th and 15th; seconded by Commissioner Stephenson. Vote passed unanimously.

The Commission members discussed the quarterly newsletter articles submitted to Dr. Riggs for review. **Commissioner Cunningham made a motion that instead of letters being submitted to the Editor that the newsletter have a Q&A section where persons could ask the Commission questions and answers would be provided in the newsletter; seconded by Commissioner Collins. Vote passed unanimously.**

Commissioner Alexander made a motion that on a rotating basis, an auditor attend the Commission meetings and be available to answer questions during the complaint report; seconded by Commissioner Collins. Vote passed unanimously.

Assistant Commissioner Meredith Sullivan asked that Chairman Haynes and Vice-Chairman Stephenson attend a meeting in her office to discuss the memo sent to her regarding the Tennessee Real Estate Manual and quarterly newsletter. Chairman Haynes turned the chair over to Commissioner Northern to continue with the meeting.

Upon Chairman Haynes and Vice-Chairman Stephenson's return from their meeting with Assistant Commissioner Sullivan, Vice-Chairman Stephenson reported that Ms. Sullivan stated that individuals would receive the newsletter quarterly, either by mail or by email if they had requested such. Vice Chairman Stephenson further advised members that TREC would continue to give out all current inventory of the 2003 Edition of the Tennessee Real Estate Manual, but new additions will be obtained from Lexis Nexis for at least a two year period. After two years, the matter would be reviewed again.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.

Chairman Haynes adjourned Commission Meeting February 8, 2007 at 12:00 noon.